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October 8, 2002

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To: Community Care for the Aged and Disabled (CCAD) Providers

Subject: Long Term Care (LTC)
Information Letter No. 02-33
Health Insurance Portability and Accountability Act (HIPAA)
Compliance Extension

NOTE: Action required by October 15, 2002

HIPAA is the acronym for the Health Insurance Portability and Accountability Act of 1996. Title I of the act deals with health insurance reform. Title II deals with simplification of administration as well as privacy requirements regarding the delivery of health care. All providers of health care services are subject to the requirements of HIPAA. As a provider of health related services to aged and disabled persons through a contract with the Texas Department of Human Services (DHS), you are subject to the requirements of HIPAA under Title II of the act.

The act pertains to electronic health care financial transactions, privacy of health information and security. As originally written, the act requires all providers to be in compliance by October 16, 2002. The primary way in which it will impact you is how you file claims for long term care services, if you send them electronically.

DHS is working to develop policies and procedures to implement the requirements of HIPAA in Texas. There are many questions still to be resolved. Training will be available to all providers once the work is completed. We hope to make the transition as smooth and painless as possible. You will receive more information on how HIPAA will affect you as this work continues.

Attached is information on how you can request an extension of the compliance date for your agency. By completing and submitting this form by October 15, 2002, you will be given until October 16, 2003 to meet all HIPAA requirements. The attachment provides answers to frequently asked questions and the web site for additional information regarding HIPAA.

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If you have any questions, please contact Gerardo Cantú at 512-438-3693.

Sincerely,

[signature on file]

Becky Beechinor
Assistant Deputy Commissioner
Long Term Care

BB:ck

Attachment
B:ck

WAIVER EXTENSION

In December 2001, the Administrative Simplification Compliance Act (ASCA) extended the deadline for compliance with the HIPAA Electronic Health Care Transactions and Code Sets standards (codified at 45 C.F.R. Parts 160, 162) one year to October 16, 2003 for all covered entities other than small health plans who compliance deadline is already October 16, 2003. In order to qualify for this extension, covered entities must submit a compliance plan by October 15, 2002. Completion and timely submission of this model compliance plan will satisfy this federal requirement, and assist Centers for Medicare and Medicaid Services (CMS) in identifying and addressing impediments to the timely and effective implementation of the HIPAA Electronic Health Care Transactions and Code Sets standards.

If you are a covered entity other than a small health plan and do not submit a compliance plan, you must be compliant with the HIPAA Electronic Health Care Transactions and Code Sets standards by October 16, 2002.

For instructions on how to complete the compliance plan, refer to the CMS website, www.cms.hhs.gov/hipaa scroll down on the page and click on the [Standard Model Compliance Form](#) link.

The on-line compliance plan is a model only, and is provided for your information. Covered entities have the option of submitting their own version of a compliance plan that provides equivalent information.

Completing the model compliance plan takes about 15-20 minutes. Simply answer a few questions about compliance concerns that you may have, and advise CMS where you are in the implementation process.

Frequently Asked Questions (CMS website)

Question 1: Does the ASCA extension affect the compliance date for the HIPAA privacy standards?

Answer: No, the compliance date for the privacy standards is still April 14, 2003, or for small health plans, April 14, 2004.

Question 2: Will noncompliant covered entities that fail to file an ASCA compliance plan be excluded from Medicare? Does the law require Medicare claims to be submitted electronically after Oct. 2003?

Answer: US Department of Health and Human Services (HHS) will be publishing proposed regulation to address this new exclusion authority.

ASCA prohibits HHS from paying Medicare claims that are not submitted electronically after October 16, 2003, unless the Secretary grants a waiver from this requirement. It further provides that the Secretary must grant such a waiver if there is no method available for the submission of claims in electronic form or if the entity submitting the claim is a small provider of services or supplies. Beneficiaries will also be able to continue to file paper claims if they need to file a claim on their own behalf. The Secretary may grant such a waiver in other circumstances. We will publish proposed regulations to implement this new authority.

Question 3: Why didn't Congress just give everyone an ASCA extension?

Answer: The requirement to submit a compliance extension plan provides assurance that covered entities have plans in place that will allow them to be compliant by the deadline of October 16, 2003.

Question 4: When will Medicaid Agencies test ASCA compliant transactions with trading partners?

Answer: Each Medicaid State Agency has its own project plan for achieving HIPAA compliance, and will decide whether to submit a compliance plan. If you are a trading partner, you will receive notice of testing directly from the Medicaid State Agency(s) with whom you do business.

Question 5: Can small health plans get an ASCA extension to their current compliance date?

Answer: No, the compliance date for small plans does not change; it remains October 16, 2003.

Question 6: Where should I send my completed ASCA compliance form?

Answer: Please submit your ASCA compliance form electronically via our website. If you cannot submit your compliance plan electronically, it must be printed and mailed to us. Send to:
Model Compliance Plans
Centers for Medicare and Medicaid Services
P.O. Box 8040
Baltimore, MD 21244-8040

Question 7: Should covered entities discontinue testing until 2003?

Answer: ASCA requires that compliance plans include a testing phase that would begin no later than April 16, 2003. We recommend that all covered entities begin to test as soon as they are ready in order to allow adequate time to address and correct problems. CMS will soon send out an instruction with dates by which Medicare contractors must begin testing with providers.

Question 8: How does the ASCA delay affect Medicare implementation activities?

Answer: Medicare will continue to implement the HIPAA transaction standards on a sequenced basis, and that schedule will not change significantly. We expect to be ready to test the claim and several other transactions by Spring 2002, but implementation of several transactions (such as the referral/authorization transaction) will be in early FY 2003. Once a provider has successfully tested a transaction with us, it will be able to use the standard in our production environment.

Question 9: Will some ASCA compliance plans be denied?

Answer: Submission of a properly completed compliance plan is sufficient to secure the one-year extension.

Question 10: Do I have to use the ASCA form?

Answer: The compliance extension form we developed is a model. While we strongly recommend its use, covered entities may submit plans using other formats.

Question 11: Do software vendors need to file for an ASCA extension?

Answer: No. Only covered entities – plans, clearinghouses and providers must file. In fact, vendors will need to maintain their current delivery schedules for compliant software in order for covered entities to make use of the additional implementation time.

Question 12: Is my organization supposed to submit our entire detailed compliance plan?

Answer: No. The compliance extension form asks only for summary information from your detailed plan. You do not need to send other information.